

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF COMMERCE

In the Matter of Stephen Oatway

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

The above matter came on for hearing before Administrative Law Judge Richard C. Luis on April 5, 2005 at the Office of Administrative Hearings in Minneapolis. Michael J. Tostengard, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, MN 55101-2130, appeared on behalf of the Minnesota Department of Commerce (Agency, Department). There was no appearance by or on behalf of Stephen Oatway (Respondent). The record closed on April 5, 2005.

**NOTICE**

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions and Recommendation. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the Office of Glenn Wilson, Commissioner, Minnesota Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101 for information regarding the procedures for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

**STATEMENT OF ISSUES**

1. Whether disciplinary action should be taken against the Respondent's licenses as an insurance producer, a securities agent, and a notary, in accordance with Minn. Stat. §§ 45.027, subds. 6 & 7 and 326.91, subd. 1, for an act or acts demonstrating dishonest and fraudulent practices, untrustworthiness, fraudulent and coercive practices and breaching his fiduciary duties to his client?

2. Whether it is appropriate to continue the Summary Suspension Order issued against the Respondent's licenses?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. On March 11, 2005, a Notice of and Order for Hearing, Statement of Charges, and Order for Summary Suspension was mailed to the Respondent via First Class Mail to the following address: Stephen Oatway, 32365 316th Street, LeSueur, MN 56058.

2. The Notice of and Order for Hearing, Statement of Charges, and Order for Summary Suspension in this matter reads, at page 3:

Respondent's failure to appear at the contested case hearing and/or prehearing conference may result in a finding that the Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and its proposed action may be upheld.

3. The Respondent did not appear at the hearing on April 5, 2005, nor did anyone appear on his behalf. The Respondent made no prehearing request for a continuance, nor did he file a Notice of Appearance.

4. The allegations of the Notice of and Order for Hearing, Statement of Charges, and Order for Summary Suspension are deemed proved and are incorporated into these Findings by reference.

5. On March 10, 2005, the Commissioner of the Minnesota Department of Commerce issued a Summary Suspension Order against the Respondent's licenses, pending the outcome of this matter, so as to prevent Respondent from continuing to operate in a manner that causes significant harm to the public health, safety and welfare.

Based on the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 45.027, subds. 6 & 7 and 326.91.

2. Any of the above Findings of Fact more properly termed Conclusions are hereby incorporated as such.

3. The Respondent was given timely and proper notice of the Hearing in this matter. The Department has complied with all relevant substantive and procedural requirements of law and rule.

4. Under Minn. R. 1400.6000, the Respondent is in default as a result of his failure to appear at the scheduled Hearing.

5. Under Minn. R. 1400.6000, the allegations and issues set out in the Notice of and Order for Hearing, Statement of Charges, and Order for Summary Suspension may be taken as true or deemed proved when a party defaults.

6. Based on the facts set out in the Notice of and Order for Hearing, Statement of Charges, and Order for Summary Suspension, the Respondent has violated Minn. Stat. §§ 45.026, subd. 2, 45.027, subd. 7, 60K.43, subds. 1(2) and 1(8) and 80A.07, subd. 1(7).

7. It was appropriate to suspend summarily the Respondent's licenses, as authorized by Minn. Stat. § 45.027, subd. 7, so as to prevent the Respondent from continuing to operate in a manner that causes significant harm to the public health, safety and welfare.

8. Disciplinary action against the Respondent is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7(a)(1).

Based upon the above Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

**IT IS RECOMMENDED:** (1) that the Summary Suspension Order in this matter be continued until a final decision is reached; and (2) that disciplinary action be taken against the insurance producer, securities agent and notary licenses of Stephen Oatway.

Dated this 27th day of April, 2005

/s/ Richard C. Luis

---

RICHARD C. LUIS

Administrative Law Judge

Reported: Default

### **NOTICE**

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.